

Chapter 1

Qualification As a Committee and Naming the Committee

Who should use this manual?

This manual is for “primarily formed” ballot measure committees: A ballot measure committee is any person or group receiving contributions of \$1,000 or more in a calendar year for the qualification, passage, or defeat of a ballot measure.

A primarily formed ballot measure committee exists to support or oppose a single measure or two or more measures being voted upon in the same city, county, multi-county jurisdiction, or state election. To decide if a committee is a primarily formed ballot measure committee, it is important to determine if it exists to support or oppose a “measure,” as defined by the Political Reform Act.

What is a measure?

“Measure” includes any proposition that is submitted or is intended to be submitted to a popular vote at an election by initiative, referendum, or recall procedure whether or not it qualifies for the ballot. An initiative, referendum, or recall becomes a measure when the proponents begin to circulate signature petitions to qualify the proposal for the ballot.

“Measure” also includes any constitutional amendment or other proposition, including an advisory ballot question, which is submitted to a popular vote at an election by action of a legislative body (e.g., city council or county board of supervisors). It becomes a measure when the legislative body takes the action necessary to submit the proposition to the voters.

Proposal	Measure?
School bond placed on the ballot for voter approval.	Yes
Local citizens circulate petition to incorporate a new city. The petition must be submitted to Local Agency Formation Commission (“LAFCO”).	No
After LAFCO approves the incorporation petition, the county board of supervisors places the incorporation question on the ballot for the next election.	Yes
Initiative campaign begins gathering signatures but does not receive the necessary number of signatures to qualify for the ballot.	Yes
City council places one-half cent sales tax increase on the ballot.	Yes
Special district informs property owners of new benefit assessment. A group of owners campaigns to defeat the assessment in the mail ballot election to follow.	No
A group of residents circulates a petition to recall a local elected official.	Yes

“Measure” also includes elections held for general and special taxes placed on the ballot by local governments for voter approval as required by Proposition 218. However, “measure” **does not include** the mail ballot and protest procedures for property-related assessments required by Proposition 218.

Recall Elections

Recall elections have the characteristics of both ballot measure elections and candidate elections. Usually, a recall has two parts:

- (1) Shall the officeholder be recalled?
- (2) Who shall replace the recalled officeholder?

The first part is considered a ballot measure election. The second part is a candidate election.

Committees supporting or opposing the recall—the first part—should use this manual. Candidates to replace the officeholder should use the candidate campaign manuals. An officeholder who is the subject of a recall should use this manual if the officeholder establishes a new committee for the purpose of defeating the recall. If an officeholder uses his or her election committee to oppose the recall, the officeholder should use the candidate campaign manual. Local jurisdictions may have additional disclosure requirements for recall committees. Contact the local agency for guidance.

Primarily Formed vs. General Purpose

Committees formed to support or oppose ballot measures in more than one election, or in more than one jurisdiction, are general purpose ballot measure committees. These committees should use the campaign manual for general purpose committees. This manual is for primarily formed ballot measure committees.

Examples *The city council in Surf City in the County of Ocean places a question on the November ballot to outlaw cigarette smoking anywhere within the city limits. A group of local singing instructors raises \$1,000 or more to buy newspaper ads to encourage their neighbors to vote for the new law. The instructors’ group is a primarily formed ballot measure committee.*

The city council in Surf City also approves an ordinance requiring singing instructors to obtain a special license, pass an exam, and pay a fee. The instructors’ group attempts to qualify a referendum on the ordinance for the same November ballot on which the smoking initiative will be listed. They are still a primarily formed ballot measure committee, because they are supporting or opposing measures in the same city at the same election.

The county board of supervisors in the County of Desert Basin placed a question on the ballot for November of the same year to outlaw cigarette smoking in forested areas. A group of cigarette smokers raises \$1,000 and organizes a campaign to defeat both the Desert Basin County measure and the Surf City measure. The smokers’ group is not a primarily formed ballot measure committee, because it is opposing measures in more than one jurisdiction. The group is a general purpose ballot measure committee.

A community college district places a bond measure on the March ballot to build a new parking structure on the site of a local skateboard park. The district boundaries include parts of three counties. Skaters unite and raise \$1,000 to oppose the bond measure. They are a primarily formed ballot measure committee, because the measure is being voted on at a single election in a single multi-county jurisdiction.

Types of Primarily Formed Ballot Measure Committees

A primarily formed ballot measure committee may also be controlled by a candidate, or be a sponsored committee.

Controlled committees

If a candidate (or his or her representative) has significant influence on the actions or decisions of a primarily formed committee, it is a controlled committee. (See Chapter 3 for information about limits on contributions to committees controlled by state candidates.)

Sponsored committees

If an entity or organization does any of the following:

- contributes 80% or more of the committee's money;
- collects money for the committee using payroll deductions or dues;
- provides all or nearly all the administrative services for the committee; or
- sets the policies for soliciting and using committee funds,

the committee is considered sponsored by the entity or organization. A committee may have more than one sponsor.



Quick TIP If you are uncertain whether your committee is controlled or sponsored (it cannot be both), contact the FPPC for advice.

Naming the Committee

There are several identification requirements primarily formed ballot measure committees must follow when choosing a name for the committee. There are **additional** identification requirements for advertisements, which are discussed at the end of Chapter 4. You are encouraged to

contact the Commission for guidance with these requirements.

If the committee is sponsored (see above), the name of the sponsor must be included in the name of the committee.

The name of a primarily formed ballot measure committee must also include:

- The measure's ballot number or letter and the committee's position on the measure. The following language should be included in the name of the committee: "a committee for Proposition ____," or, "a committee against Proposition ____." In addition, "Yes [or No] on Proposition ____," "Yes [or No] on ____," or "Yes [or No] on Measure ____" are all acceptable.
- If the committee is primarily formed to support or oppose the recall of an officeholder, the name of the officeholder who is the subject of the recall and whether the committee supports or opposes the recall must be in the name of the committee. A committee formed by an officeholder who is the subject of a recall must include the word, "recall," in the name of the committee.
- A name or phrase that clearly identifies the economic or other special interest of major donors who contributed cumulatively \$50,000 or more. This means that the committee name must identify any economic interest that exists that is likely to be affected by the ballot measure. If no such economic interest exists, the name or phrase must identify any goal or purpose that is likely to be affected by the measure. If there is more than one contributor of \$50,000 or more and all such contributors do not share an economic interest or goal or purpose, the name or phrase must identify the various economic interests or goals or purposes that are likely to be affected by the ballot measure;

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- The common employer of the major donors of \$50,000, if one exists; and
- The names of candidates or their controlled committees if, as a group or individually, they are major contributors of \$50,000 or more, as described above.

The following are examples of ballot measure names to help clarify the various committee name requirements. These are examples only, and are not the only ways to choose a committee name. In fact, committees often add additional information that is not required by the Act or its regulations.

Examples *A local tax measure would increase the city's sales tax with all funds earmarked to firefighting services. A local firefighter's union forms a ballot measure committee and raises a total of \$5,000 from its members to support the measure.*

The committee must include the name of the union in the name of the committee because it qualifies as a sponsor, and it must identify that it supports the measure: "The Pasadena Firefighters, Local 1210 Committee for Measure A" or "A Committee in Support of Measure A, Sponsored by the Pasadena Firefighters, Local 1210."

Jerry Fair is the subject of a recall. He forms a separate committee and raises \$10,000 to oppose the recall.

The committee name must include the name of the officeholder and include the word "recall." "A Committee Against the Recall of Jerry Fair" or "The Committee to Oppose the Recall of Jerry Fair."

A group of individuals representing their businesses establishes a bank account to raise contributions to support a transportation bond measure. ABC Company provides all of the administrative support for the committee. No other business qualifies as a sponsor. The committee raises \$15,000.

The committee name must include the name of the sponsoring business and must identify that it is in support of the measure. "The Committee in Support of Measure X, Sponsored by ABC Company" or "Yes on Measure X, Sponsored by the ABC Company."

A group of individuals raises \$3,000; all contributions were under \$100 and from individuals. The committee is formed to support a library tax measure.

The committee name must identify that it is in support of the measure. "Committee to Support Measure B" or "Yes on Measure B Committee."


Proposition 110 is a state ballot measure that will provide bond funding specifically for improving the state park system. The committee to support the measure received two contributions of \$50,000 or more; \$75,000 from the Parkland Foundation (mission is to expand and improve parks) and a personal contribution of \$55,000 from Linda Nelson, a hiker, who has no business affiliation related to parks. The administrative support for the measure is provided by a union representing park rangers, Park Rangers, Local 1010. All additional contributions are less than \$50,000. No candidate controls the committee and no other entity qualifies as a sponsor.

The committee name must identify: 1) the sponsor, 2) the economic, special interest, goal or purpose of the contributors of \$50,000 or more, and 3) the committee's position on the measure.

"Citizens for Proposition 110, a Committee in Support of Expanding California Parks, Sponsored by the Park Rangers, Local 1010" or "Support Proposition 110, Sponsored by the Park Rangers, Local 1010, with Help from Citizens and Business for Parkland Improvements."

Senator O’Leary supports Proposition 114, a measure that would fund state museums, and contributes \$100,000 from his reelection committee to the committee primarily formed to support the measure. The committee has also received a contribution of \$75,000 from the California Museum Curators Association. No contributor qualifies as a sponsor and no other contribution was received of \$50,000 or more.

The committee name must include the senator’s name, the economic interest, goal or purpose of the California Museum Curators, and whether the committee supports or opposes the measure. Examples of acceptable names would include: “Increase Funding for State Museums, Yes on Proposition 114, Supported by Senator O’Leary and Curators for Improving Museums” or “Yes on Proposition 114, a Measure to Fund State Museums, Supported by Senator O’Leary and Advocates for Museum Funding.”

 **Quick TIP** It may be necessary to change the name of the committee during the course of the campaign. For example, as new contributions are received, the sponsor(s) of the committee may change, or the economic or other special interest of the committee’s major donors may change. See Chapter 5 for more information about amending the committee name.


Reporting

A person or group must file a statement of organization (Form 410) within 10 calendar days of becoming a committee by receiving contributions of \$1,000 or more in a calendar year. In addition, a committee supporting or opposing a statewide measure is subject to electronic filing requirements upon receiving contributions or making expenditures of \$50,000 or more. Generally the first electronic disclosure reports for such committees are due within 10 business days

and must identify contributors of \$5,000 or more.

The obligation to begin counting contributions arises when a proposal becomes a measure. If the proposal is an initiative, referendum, or recall, it becomes a measure when proponents begin circulating petitions to qualify the proposal for the ballot. If the proposal is not an initiative, referendum, or recall, it becomes a measure when the legislative body takes the action necessary to submit the proposal to a popular vote.

Once a proposal becomes a measure, contributions received and expenditures made count toward the \$1,000 threshold for becoming a committee and are reportable, even if the contributions or expenditures took place before the proposal became a measure. If the person or group raises \$1,000 or more before a proposal becomes a measure, the 10-day period for filing Form 410, as well as electronic reports, begins the first day proponents begin to circulate petitions or when the legislative body acts to place the proposal on the ballot. If a group begins to raise contributions after the proposal becomes a measure, the 10-day period begins on the day the group raises \$1,000 or more.

 **Quick TIP** Committees formed to oppose the qualification of a measure must file disclosure reports once the proponents begin to circulate petitions. Because the actual date that petition circulation begins can vary, opposing committees often begin filing as soon as \$1,000 or more is received or as soon as they know the date of “proof of publication” for local measures or the date of “issuance of title and summary” for state measures.

If the committee received contributions before the proposal became a measure, the committee must report the names of

contributors who had a reason to know their contributions were for use in supporting or opposing the qualification of the measure, or in supporting or opposing the measure's passage. The contributors would have reason to know if, for example, the committee sent out a solicitation or placed an advertisement asking for contributions for petition circulation or to support or oppose the measure. This manual cannot address all of the situations when a contributor may have "reason to know" his or her contributions will be used for a measure. Committees may contact the FPPC for specific guidance.

Example *A statewide initiative is being drafted. In anticipation of the initiative qualifying for the ballot, a group sends solicitation requests to oppose the proposal and raises \$75,000. The group is not required to file disclosure reports listing the sources of the \$75,000 until the proponents sponsoring the initiative begin to circulate petitions. On the first day the petition circulation begins, the group opposing the measure qualifies as a committee and is subject to reporting obligations. The committee must file a Statement of Organization, Form 410, within 10 calendar days, and because the committee raised more than \$50,000, it must file a \$5,000 electronic report within 10 business days listing any single contributor of \$5,000 or more. The committee is required to file quarterly, semi-annual, and pre-election statements as well as special reports as discussed in this manual.*

A primarily formed ballot measure committee must report expenditures made to support or oppose qualification or passage of a measure, including expenditures that occurred before the proposal became a measure.

Reportable expenditures may include:

- cost of a poll or survey, if used in a communication to influence voters

regarding the qualification or passage of a measure;

- payments to defray the costs of conducting an election;
- filing fees;
- legal costs relating to gaining or retaining a place on the ballot, or keeping a measure off the ballot.

Common expenditures that are not reportable include:

- expenditures in connection with a petition to be submitted to LAFCO;
- cost of a poll or survey to determine the feasibility of drafting a measure, if not used in a communication to influence voters; and
- certain legal costs incurred prior to the circulation of petitions, including legal costs related to drafting the proposed measure.

Quick TIP If a measure is passed and a person raises money to challenge the constitutionality or legality of the newly-enacted law, such donations and payments do not count toward the group qualifying as a ballot measure committee.

Detailed instructions on filing the Form 410 are provided in Chapter 5. Detailed instructions for reporting contributions and expenditures are provided in Chapter 7.


Litigation Issues

When a group receives money for the purpose of challenging a ballot measure's placement on a ballot, whether the group qualifies as a recipient committee will depend upon the facts of each case. Some common issues related to litigation are noted below but advice relating to litigation is specific to facts, so it is best to contact the FPPC.

- A person raises money to challenge the wording of a measure's description in the

ballot pamphlet. Such payments are made for the purpose of influencing the voters, so they may cause the person to become a recipient committee.

- A person raises money to challenge the validity of petition signatures. Such payments may cause the person to become a recipient committee.
- When a ballot measure is passed and a group receives money for the **sole purpose** of challenging the constitutionality or legality of the newly-enacted law, such payments are not made to influence voters and the group would not become a recipient committee.

 **Litigation expenses in connection with a ballot measure are reportable if made by an existing recipient committee.**

Answering Your Questions

- Q. *Our political action committee has been registered for several years as a general purpose recipient committee and has supported and opposed candidates and measures in various elections. This year, the committee plans to raise and spend the majority of its funds to support a county ballot measure. Must we amend our registration to become a primarily formed ballot measure committee?*
- A. No. The committee is still a general purpose recipient committee even though the majority of the committee's funds for the year will be raised and spent to support the ballot measure.
- Q. *May a candidate control a ballot measure committee? Must the candidate file a Form 501 (Candidate Intention) for the committee?*
- A. A candidate may control a ballot measure committee as long as the committee's funds are not used to support the candidate's election or to support or

oppose other candidates. No Form 501 is required.

Authority

The following Government Code Sections and Title 2 regulations provide authority for the preceding information in this chapter.

Government Code Sections

- 82016 *Controlled Committee.*
- 82027.5 *General Purpose Committee.*
- 82047.5 *Primarily Formed Committee.*
- 82047.6 *Proponent of a State Ballot Measure.*
- 82048.7 *Sponsored Committee.*
- 82043 *Measure.*
- 82051 *State Measure.*
- 84101 *Statement of Organization. Filing.*
- 84215 *Campaign Reports and Statements; Where to File.*
- 85309 *Online Disclosure of Contributions.*

Title 2 Regulations

- 18531.5 *Recall Elections.*
- 18539 *Online Disclosure of Contributions.*